

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**COMMONWEALTH OF  
PENNSYLVANIA,**

**Plaintiff,**

**v.**

**NO. 2:17-cv-04540-WB**

**DONALD J. TRUMP *et al.*,**

**Defendants.**

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION FOR  
EXCESS PAGES AND FOR LEAVE TO FILE REPLY**

Plaintiff Commonwealth of Pennsylvania (the “Commonwealth”) respectfully files this Response to the Defendants’ “Motion to File Excess Pages for Memorandum in Support of their Motion to Dismiss and in Opposition to Plaintiff’s Motion for Preliminary Injunction and for Leave to File Reply in Support of Their Motion to Dismiss” (the “Motion”) and, in support thereof, states as follows:

1. On November 14, 2017, the Defendants filed their Motion (Dkt. No. 12).
2. Defendants request leave to file:
  - a. a 55-page memorandum in support of their motion to dismiss and in opposition to the Commonwealth’s motion for a preliminary injunction;
  - b. a reply brief responding to the Commonwealth’s opposition to their motion to dismiss within seven days after the Commonwealth files its opposition; and
  - c. a reply brief responding to any *amicus curiae* briefs responding to their motion to dismiss within seven days after the deadline for *amici* to file.

3. As the Defendants state in their motion (§ 8), the Commonwealth does not oppose Defendants' first request to file an oversized brief in support of their motion to dismiss and in opposition to the Commonwealth's motion for a preliminary injunction.

4. The Defendants also state that the Commonwealth "does not agree to defendants' request for leave to file reply briefs" (§ 11). The Commonwealth wishes to clarify its position on this issue for the Court as follows:

a. the Commonwealth does not object to the Defendants' filing a reply in support of their motion to dismiss, in accordance with this Court's policies and procedures;

b. the Commonwealth also does not object to the Defendants responding to arguments presented by any *amicus curiae* briefs that address their motion to dismiss;

c. the Commonwealth does not believe, however, that any such briefing should delay the hearing on its motion for a preliminary injunction, which is scheduled to begin December 14, 2017.

5. Therefore, Plaintiff respectfully proposes the following:

a. Under the Court's previous order (Dkt. No. 11), the Commonwealth's reply in support of its motion for a preliminary injunction must be filed by November 27, 2017, and *amicus curiae* briefs must be filed by the same day. The Commonwealth is prepared to respond to Defendants' motion to dismiss at the same time and, therefore, proposes that it file a combined reply in support of its motion for a preliminary injunction and in opposition to Defendants' motion to dismiss of no more than 30 pages on that day.

b. Under this Court's procedures, the Defendants will have seven days, or until December 4, 2017, to file their reply in support of their motion to dismiss. *See* Rule

IV.A. The Defendants will be able to respond to any arguments presented in *amicus curiae* briefs in this reply, which will eliminate any need for the Defendants to file separate reply briefs.

6. Under this proposed schedule, the Commonwealth's motion for a preliminary injunction will be fully briefed by November 27 and the Defendants' motion to dismiss will be fully briefed by December 4.

7. The Commonwealth will be prepared to address the Defendants' motion to dismiss at the injunction hearing already scheduled for December 14.

8. While the Commonwealth does not believe it is necessary for the Court to consider both motions at the same time, for purposes of efficiency, it has no objection to consolidating argument at that hearing.

9. The Commonwealth believes that this proposed schedule will allow the Defendants to respond fully to all arguments in opposition to their motion to dismiss while avoiding any risk of delaying the scheduled hearing on the Commonwealth's motion for a preliminary injunction.

Respectfully submitted,

JOSH SHAPIRO  
Attorney General  
Commonwealth of Pennsylvania

November 15, 2017

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### **CERTIFICATE OF SERVICE**

I hereby certify that I have caused the foregoing document, and any attachments thereto, to be electronically filed with the Clerk of the Court for the United States District Court for the Eastern District of Pennsylvania by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: November 15, 2017

/s/ Jonathan Scott Goldman  
JONATHAN SCOTT GOLDMAN